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Atari Online News, Etc.  
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~ Chrome Catching Firefox ~ Can You Crack the Code ~ Dentist Fines Patient!

-\* Pee-Controlled Video Game! \*-  
-\* Congress Enters Net Sales Tax Fray! \*-  
-\* HP Douses Fiery Prinyrt Hacking Theory! \*-

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->From the Editor's Keyboard "Saying it like it is!"  
"\*\*\*\*\*"

Well, the last of the Thanksgiving leftovers are essentially gone; I think that there might be a few slivers of turkey left, but they may have disappeared without my knowledge!

With that in mind, the next half of the holiday season is in full swing! In the old days, we would be out searching for the latest and greatest Atari wares, but alas, we haven't been able to do that for almost 20 years now. Wow, has it really been that long? I remember dropping hints to my wife about some specific Atari games, utility software, or one of the latest terrific applications offered by some great Atari developers. Not any more, I'm sorry to say. But, I still remember those days with fondness!

So, while you're perusing the latest circulars searching for those perfect holiday gifts for your loved ones and friends, please take out a little time to enjoy this week's issue!

Until next time...

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->In This Week's Gaming Section - World's First Pee-Controlled Video Game!  
"\*\*\*\*\*" Women Gamers Have More Sex!  
Valve Employee Caught Wearing Half Life 3 Shi  
rt!

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->A-ONE's Game Console Industry News - The Latest Gaming News!  
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World's First Pee-Controlled Video Game Opens in London Bar

In most pubs and bars, going for a pee involves just that - emptying your bladder, washing your hands and returning to your table. However, take a pee in The Exhibit bar in south London and you ll have an altogether different experience.

You see, The Exhibit has taken it upon itself to install in its men s bathroom a number of pee-controlled video games; games with carefully thought up names such as Clever Dick and On The Piste. The system is thought to be the first of its kind in the world, and besides making a trip to the bathroom more entertaining, it will also be an opportunity for advertisers to promote their products.

Developed by UK-based Captive Media, the high-tech urinals come with 12-inch LCD screens fitted just above them. Ads play on the screens until a punter approaches the urinal. Detecting that the punter is in position and ready to pee, the system then switches into gaming mode.

"Sophisticated algorithms then allow the user to do something simple, but VERY engaging - controlling the system just by aiming their stream left or right!" the blurb says on Captive Media s website. So with the skiing game, you re able to navigate the course with some subtle but deft movements. How well you do at the game is entirely in your hands, so to speak.

The pee-controlled urinals are the brainchild of Gordon MacSween, a man who is effectively paid too pee. "We tend to drink a lot of water so that we can test the product more often," he told London s Time Out magazine.

MacSween said that when the system was trialed at a bar in Cambridge recently, a couple of behavioral changes among the peeing public were noted. "There has been less mess, which we sort of expected because we designed the game so you re not splashing about, and less vandalism," he explained.

"When we put it in, people thought it d be ripped off the wall within a week, but it s still there after four months. Because people are having a laugh, there s a lot less vandalism. People just tend to get less angry."

At one point MacSween was baffled by players ability to achieve scores far above anything he ever got. After talking to some customers, he found out why. "It turns out people were learning how to stop and start (their pee flow) to get higher scores." So if you ever find yourself peeing for points, you know exactly what to do.

The Exhibit bar opened its new bathroom on Friday. It s quite possible that for the first time ever in a UK drinking establishment, there ll be more people lining up for the bathroom than for a drink.

It s not known what, if anything, Captive Media has planned for the women s bathroom.

#### Women Gamers Have More Sex

I am about to stun you. I hope you are prepared. For this will be like being tased, bro'.

Gamers, apparently, are no longer teenage boys with growing pains.

No, according to a study performed by Harris Interactive at the behest of Gamehouse - which seems to be a site where you can, well, game - more than half of online gamers are actually female.

Should you still be breathing, might I turn your attention to some further results of this analysis of more than 2,000 adults.

Women gamers have more sex than women non-gamers. Yes, by the vast margin of 5 percent (57 versus 52.)

Furthermore, these sexualized female online gamers actually have sex more often than sexualized non-gamers. (38 percent have sex at least once a week, beating down the non-gamers' 34 percent.)

Are you still with me? Is that post-defibrillator feeling strangely reassuring?

Then let me tell you that 74 percent of online gamers and 71 percent of their gaming-abstinent counterparts watch TV at least once a day.

This led Gamehouse's chief gamer, Matt Hulett, to offer one of the great sentences of this year, or any other: "Maybe if we all watched a little less TV and played more games online, we'd all be having a little more sex."

I am sure Dr. Ruth, the Mother Teresa of all things sexual, could not have put it better herself.

You will, no doubt, wish to go into the female gaming phenomenon in even greater detail. I can tell you that this survey concluded that more than half of lady gamers are in a serious relationship. (I am assuming that this meant with another human being.)

Apparently 70 percent of these relationship-laden ladies are actually happy in these relationships. Which might suggest that gaming is good for our society's fabric, if not for the fabric of your office chair.

But here's one sobering statistic that might make one of my favorite wives (not my own wife, you understand, but my favorite of my friends' wives) ponder. Jurana (not her real name) plays FarmVille and Mafia Wars until her eyes and fingers are the same shade of red.

How instructive, then, to learn from this study that the main reason given by women for their gaming habit is stress relief (61 percent), followed very closely by boredom (58 percent).

This confirms my theory that the vast majority of online gamers turn to them in order to turn away from the reality show that is the real world.

Might it be that the more they game, the more game the women are for other, more active pursuits? Or could it be that sex and gaming simply perform the very same emotional function for so many women?

We re not about to let ourselves get too excited, but the latest scuttlebutt from the internet that comes to us from the folks at Ubergizmo, certainly sent our hearts aflutter.

It appears that a marketer at Monday Night Combat tweeted something rather interesting and hope-inspiring: the tweet showed a Valve worker wearing a Half-Life 3 t-shirt. Of course if you don t already know, Half Life and its subsequent sequels are heralded and loved by many in the videogame community, and are often spoke of as the zenith of first-person-shooters. Whether the shirt is official or not, and whether or not Half-Life 3 is actually in development cannot be confirmed, but there is no denying the excitement, speculation, and rumor mongering that it will undoubtedly ensue. And if all proves false, well we take it certainly as a very cruel prank.

Following the release of Half-Life 2 in 2004, the series began to release episodic installments which have turned into something of an exercise in irony. Following the release of Half-Life 2 - six years after the original - Valve announced that it would be releasing episodic expansions to continue the story and appease fans hungry for more, specifically to avoid a long gap in the development cycle as with the previous games. Valve went on to release the additional level Half-Life: Lost Coast, followed by the expansion packs Half-Life 2: Episode One and Episode Two. A third episode that will act as the conclusion to what was always imagined as a trilogy was announced, but four years have passed with no definite word on when to expect Episode Three. Back in 2006 Valve s co-founder and managing director Gabe Newell claimed that he felt the episodes were mislabeled, and that the three episodes actually were Half-Life 3. Perhaps the t-shirt sighting means that when Episode Three is finally released, the three sections will be bundled and sold as Half-Life 3, or possibly another game is on the way. Or maybe the shirt is totally unofficial.

But the timing is hard to ignore. Could Valve be saving a big (read: official) reveal for the upcoming Spike TV VGA s? The VGAs have become a go-to destination for developers looking to make a major announcement late in the year, and this year promises to hold many surprises. Although after all these years, we re beginning to wonder if Newell can count to three.

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A-ONE's Headline News  
The Latest in Computer Technology News  
Compiled by: Dana P. Jacobson

#### EU Data Protection Reform To Replace National Laws

The European Union wants to replace a mishmash of national laws on data protection with one bloc-wide reform, updating laws put in place long before Facebook and other social networking sites even existed.

EU Justice Commissioner Viviane Reding said Monday that social networks must become more open about how they operate. Under her proposals,

businesses - including Internet service providers - would have additional responsibilities, such as having to inform users of what data about them is being collected, for what purpose, and how it is stored.

EU regulators have been concerned about how commercial online services use customers' personal data to attract advertisers, saying they want to make sure that citizens' Internet privacy rights are respected.

"All social network service providers active in the EU must fully comply with EU data protection laws," Reding said. "Companies have a specific responsibility when personal data is their main economic asset,"

Existing EU laws date to 1995, long before Facebook and other social networking sites existed. EU officials expect the draft legislation to be ready early next year, and after that, it could take up to 18 months for the bill to become law.

The EU has to iron out differences between its members over privacy issues. Countries like France and Germany favor stronger protections for privacy, while Ireland, Britain and others prefer more market-friendly rules.

A Eurobarometer survey this summer found that 75 percent of Europeans are worried about how companies - including search engines like Google and social networks like Facebook or LinkedIn - use their private information.

The proposed reform also would help businesses by replacing the current patchwork of 27 national regulations, she said.

"They need ... to have a 'one-stop-shop' when it comes to data protection matters, one law and one single data protection authority," Reding told the American Chamber of Commerce to the EU. "I want to drastically cut red tape."

#### And The Bidding for Yahoo Begins

The maneuvering to take control of Yahoo is now underway: according to Bloomberg, private equity firm Silver Lake Partners, in conjunction with Microsoft, the Canada Pension Plan Investment Board, and venture capital firm Andreessen Horowitz have reportedly made a bid to acquire as much as 15 percent of Yahoo for some \$16.60 a share, a value about 6 percent higher than Yahoo's stock price at the close of markets on Tuesday. In all, the transaction would total up to \$3 billion, and places the market value of Yahoo at more than \$20 billion. Yahoo's board is meeting today, likely to discuss the offer and other investment or sale possibilities.

If the reports are accurate, the Silver Lake bid does not represent an effort to take over Yahoo in its entirety: instead, Silver Lake and its partners would buy a significant stake in the company and (presumably) get some seats on Yahoo's board of directors. Yahoo's board has been widely criticized as one of the least effective in the industry - it's likely anyone purchasing a minority stake in the company would want representation on the board. Yahoo is also still casting about for a CEO: the company is currently being led by former CFO Tim Morse in an interim capacity since the ouster of Carol Bartz last September - some speculation is looking to Marc Andreessen to step into the board chairmanship, with former OpenTable CEO Jeff Jordan as a candidate for Yahoo CEO.

Silver Lake and its partners aren't the only potential investors eyeing Yahoo: recent reports have had Thomas H. Lee, Bain Capital, TPG Capital, the Blackstone Group, KKR, and even China's Alibaba considering significant investments in Yahoo.

What is going on here? As far as most Internet users are concerned, Yahoo lost its luster years ago and all the action has shifted to social networking, online shopping, and mobile - areas where Yahoo has famously failed to execute. What do investors see in Yahoo - and can Yahoo return to its former glory?

The basic argument for buying Yahoo is that, despite the fact its days of being a hot Internet-defining brand seem to be long behind it, the company still commands a substantial audience. Some 600 million Internet users still use Yahoo services, whether that's Yahoo Instant Messenger, setting up custom My Yahoo pages, or using services like Yahoo Mail and Flickr. Yahoo also still has a significant share of the U.S. and worldwide search market: although the back end is powered by Microsoft's Bing, Yahoo handles ad sales and designs the front end of its own search offering: according to comScore, Yahoo represents 15.2 percent of the U.S. search market, still ahead of Microsoft's Bing-based offerings with a 14.8 percent share.

All that audience translates to ad impressions, advertising purchases, and search keyword sales - and those are the core of Yahoo's revenue. Yahoo's financial results for the third quarter of 2011 (PDF) show display advertising revenue of \$502 million for the quarter, with search revenue of \$467 million (both using GAAP accounting methods - the results are lower if you figure in money Yahoo spent to acquire traffic). In essence, that means Yahoo quarterly revenue is in the neighborhood of \$700 million to \$1 billion, with free cash flow in the \$250 range - which is enough cash flow to attract a significant number of investors.

And Yahoo does have a few bright spots in its operations: despite the departure of its founders, Yahoo's Flickr photo-sharing site remains the leading photo community on the Internet, even though Facebook has long since eclipsed it as the largest online photo repository. Millions of people still rely on Yahoo Mail, and Yahoo Shopping has managed to gain some traction.

Yahoo also has a few other assets in its portfolio, including 40 percent stakes in both China's Alibaba and Yahoo Japan. Although Yahoo's operation in the United States may not be showing much revenue growth, Alibaba is showing marked success in China - which is both the world's largest and fastest-growing Internet market. Of course, the downside is that Yahoo's relationship with Alibaba and its head Jack Ma has often been fractious - nonetheless, those investments currently represent a significant portion of Yahoo's revenue growth potential, and the only real way for investors to set hands on them is to buy into Yahoo.

Yahoo has repeatedly indicated the company is 'not for sale,' but company leadership has been almost flagrantly public about reviewing its options and considering the sale of at least portions of its businesses. In part, exploring sale options is an effort to raise capital and return some value to investors: after all, Yahoo's stock price has plummeted from a high of \$33 a share four years ago to under \$15 a share before Thanksgiving - a figure it's been hovering around for more than two years.

Yahoo's current strategy seems to be offering a minority stake of just under 20 percent of the company using PIPE transactions - Private

Investment in a Public Equity. If Yahoo keeps the proportion of the deal under 20 percent of the company, Yahoo's board of directors can approve the deal without putting it to a shareholder vote. PIPE transactions are generally considered the province of less-than-reputable companies: they're essentially a strategy that allows major changes in company ownership without shareholder approval. If Yahoo conducts such a transaction, it's almost certain to further alienate its investors - unless it can generate tremendous amounts of cash from the sale.

The offer of \$16.60 per share for a 15 percent stake in Yahoo from Silver Lake and its partners seems to represent a bet that Yahoo can turn around its core business. Although the investment would likely involve leadership changes and a shakeup of the company's board - and, likely, pruning of Yahoo's business - the deal would also deepen Microsoft's ties with Yahoo. Microsoft is currently the backend operator of Yahoo search, and has been pumping money into Yahoo as part of that deal - last quarter Microsoft paid Yahoo \$53 million under the terms of their search agreement. However, Microsoft's total reimbursements to Yahoo for search are capped at \$150 million - a limit that has now been reached. Allowing Microsoft to continue pumping money into Yahoo - even indirectly through an investment group - keeps Yahoo's books in better shape. It also potentially gives Microsoft greater access to Yahoo's 600 million users - something that may be particularly lucrative as Microsoft works to integrate the Skype VoIP service into its platform and offerings. It's important to note that Silver Lake - the same group floating this proposed buy-in to Yahoo - is the same company that led the effort to buy Skype from eBay - and then flipped it to Microsoft less than two years later for a very handsome profit.

From an investor's point of view, however, the \$16.60 per share offer from the Silver Lake group has to be a bit underwhelming. It represents only a six percent premium over Yahoo's share price at the time the deal was made - a figure that doesn't seem like much of a benefit for selling such a large stake in the company. Moreover, investors who have been looking at Yahoo recently have been hoping for a much larger return on their investment, pending the sale of the entire company or at least Yahoo's Asian holdings, which should be able to command a premium. The Silver Lake offer does not represent a takeover of the entire company, nor a liquidation of Yahoo's Asian assets, nor a substantial payday for investors. In short, it could go over like a lead balloon.

Yahoo may have other options. Yesterday, Reuters reported that investment house Thomas H. Lee is considering a leveraged buyout of Yahoo's U.S. operations. A leveraged buyout would mean going around the board of directors and appealing directly to Yahoo's shareholders to approve the deal. Although there's no word on how much Thomas H. Lee might be willing to pay - numbers of \$5 to \$6 billion have been mentioned - it would have to be an enticing offer to get a majority of Yahoo's shareholders on board - although perhaps not overly enticing, given that Silver Lake is willing to offer only a six percent premium for a minority stake. Thomas H. Lee's interest in Yahoo seems to be in managing its U.S. operations similar to the way it handles other media outlets like Clear Channel, Univision, and Nielsen. And, although it's not clear, such a sale would presumably leave Yahoo with its international operations, Asian assets, and a heap of cash.

At the same time, Silver Lake may have some competition: venture firm TPG Capital is reportedly considering topping Silver Lake's offer by \$1 a share, implying Yahoo might be able to generate a bidding war for a minority stake.

Another player might be Jack Ma and Alibaba. Last month Jack Ma indicated

he might be "very interested" in buying up Yahoo, likely partly due to Yahoo's enormous range of international properties - that could enable Alibaba to more easily expand to markets outside China. Although Ma's initial enthusiasm was apparently quickly quelled by U.S. investment regulations that would require a detailed review of the acquisition of a U.S. firm buy a Chinese company - particularly since political relations between the countries are strained; AllThingsD reports Jack Ma is moving forward with working out a deal with Japan's SoftBank and U.S. private equity firms (perhaps including BlackStone, Bain, and Providence Equity Partners) to make a bid. Ma has indicated his patience with trying to work out a deal for Yahoo is limited, but Alibaba has repeatedly tried to buy out Yahoo's 40 percent stake in the company - a move Alibaba might be able to force through if Yahoo can't generate sufficient investor interest from other quarters.

Yahoo is walking a very fine line: it wants to bring in additional capital and make yet another effort to refocus its business and jumpstart revenue growth - but it wants to do it without sacrificing control of the company, its Asian investments, or selling off any of its crown jewels.

Selling up to a 20 percent stake in the company may be a way for Yahoo to bring in short term cash. However, it may not be much cash unless Yahoo can execute on a solid business plan and break away from the passivity and indecision that seem to have hamstrung Yahoo leadership (and particularly its board) in recent years. Otherwise, Yahoo will likely continue on the same path it's been following since being sideswiped by Microsoft in 2008: dying by degrees.

#### Amazon Has a Very Good Reason to Now Support an Internet Sales Tax

Now that the legislation favors Amazon, in a total turnaround from earlier this year, today Amazon came out and said it "strongly supports" the Internet sales tax. A few months ago, Amazon was acting all baby, filing law-suits and refusing to collect the fees but today it has no problem with it at all. Yet, while Amazon lauds the legislation, eBay is continuing the fight, reports CNET's Declan McCullagh. What gives? Amazon has had this epiphany that other Internet companies haven't is because things are now working in its favor.

Amazon okayed the The Marketplace Fairness Act, which aims to close sales tax loopholes, because it had the "appropriate provisions," said Amazon Vice President Paul Misener at a Judiciary Committee meeting today. Those "appropriate provisions" include a very low exemption for small businesses at \$500,000 a year in sales, meaning most Internet sellers would have to collect the fees. A giant company like Amazon can survive with these impositions, but for a small retailer, the taxes can put them out of business. At least that's what eBay is arguing. Stores like Amazon already dominate the web, eBay's debuty general council Tod Cohen explained to McCullagh. "To illustrate, big-box discount retailers accounted for 42 percent of total retail sales in 1987," he said. "As of July 2010, their market share had jumped to 87 percent." Without a higher exemption, big retailers will continue to push smaller vendors, who can't afford the taxes, out of business, argues eBay. Tomorrow, eBay will tell the Congressional panel that it opposes the legislation and would not support anything that didn't have higher exemptions. The House Bill has a higher cap than the Senate Bill at \$1 million, but even that is too low, argue eBay.

Beyond the competitive advantage the legislation would afford Amazon, the company could make money off the deal, charging its vendors in exchange for sales tax chores, according to marketing trade-site Multi-Channel Merchant's Jim Tiemey. He suggests that Amazon would offer an optional service that would deal with the sales tax collection process and collect a 2.9 percent fee for the process. Abe Garver, a financial analyst at Focus Investment Banking, estimates Amazon has \$116 million a year to gain from this set-up.

## Congress Steps into States' Scuffle over Sales Tax

After the frenzy of "Cyber Monday," members of Congress on Wednesday entered into a different scuffle over web shopping: states' desire to collect sales taxes from Internet retailers.

"Main street retailers - local mom and pop stores in many instances, and even some of the big box retailers - suffer when they have to collect the sales tax but on-line retailers don't," said Michigan's Rep. John Conyers at a hearing. "Fewer purchases at local retailers means less local jobs."

Conyers has introduced one of three bills currently in Congress to create a system for collecting sales taxes across state lines.

In 1992, the Supreme Court said the patchwork of state tax laws made it too difficult for on-line retailers to collect and remit sales taxes. Currently, states can only tax Internet sales made by companies that have physical presences within their borders.

"We ought to make sure there are no new taxes on people of several states," said Rep. Mike Pence from Indiana, a Republican.

Still, he added, "I don't think Congress should be in the business of picking winners and losers and inaction by Congress today results in a system that does pick winners and losers."

At the hearing of the House Judiciary Committee, Amazon.com signaled a major shift in its view of sales taxes.

Paul Misener, vice president for its world-wide public policy, said the mega-retailer supports federal legislation that would "authorize the states to require out-of-state sellers to collect the sales tax already owed."

In recent years, the company's maneuvers to skirt collecting the tax in states where it does not have a corporate presence caused leaders to call the levy the "Amazon tax."

Misener said federal legislation would allow Congress to help states address budget shortfalls, but that it should not create an imbalance between small and large companies.

"Congress may, should, and feasibly can attain the objectives of protecting states' rights, addressing the states' needs without federal spending, and leveling the playing field for all sellers - but only if any 'small seller exception' is kept very low," Misener said.

Online sales reached a record \$1.251 billion on Monday, up 22 percent from

the same day last year. Shoppers returned to work after the Thanksgiving holiday on "Cyber Monday" to buy items on their office computers, making it the biggest day ever for U.S. online retail.

Amazon's same-store sales surged 51.4 percent during the first half of the day, compared to a year earlier, while sales via eBay's online marketplace climbed 17.1 percent.

States and local governments that are slowly recovering from the 2007-09 economic recession, which caused their revenues to collapse, are eager to tap into that activity. A University of Tennessee study estimated that annual sales tax revenues lost to online retail in 2012 would total \$11 billion.

For more than a decade, a board of state officials has worked to create the "Streamlined Sales and Use Tax Agreement" for a consistent system of remitting sales taxes. Two dozen states have passed legislation conforming to the agreement.

"This is not a tax on the Internet. This is a tax on the consumer who is going to receive the government services in whatever state that is," said Indiana State Senator Luke Kenley, representing the governing board, at the hearing.

In September, California rolled back legislation requiring taxes be collected on sales posted by online retailers through their affiliates located in the state. In exchange, Washington-based Amazon dropped its threat of a costly ballot fight.

Patrick Byrne, CEO for another mega-retailer, Overstock.com, told the committee complying with each state's unique tax code was difficult and businesses should not be responsible for upholding various tax laws.

Not all states have sales taxes, and those that do charge different rates.

"If states want or need to hire retailers to collect sales taxes from their residents, true fairness requires that the states provide them with: plug-and-play software solutions, indemnification from computation, collection, and administration errors, and compensation for doing the tax collection work on behalf of those states," Byrne said.

eBay shot back at Amazon over the small business issue, contending that many merchants using its site have thin margins that would shrink even more if they had to charge sales taxes.

"If you believe that small business retailers should not be harmed by a change in remote sales tax law, then the definition of what constitutes a small business that would be preserved from new tax collection requirements is an important one," said eBay Inc. Vice President and Deputy General Counsel of Government Relations, Tod Cohen.

#### Highest EU Court Prohibits P2P Filtering by ISPs

The origins of this ruling lie in Belgium. The Belgian version of the RIAA, SABAM, had sued Belgian internet provider Scarlet because the ISP's users were downloading copyrighted content without paying royalties. The President of the Tribunal de première instance de

Bruxelles (Brussels Court of First Instance) then ordered Scarlet to install a filtering system to monitor the internet traffic of its subscribers.

Scarlet didn't like this and appealed, and argued before the European Court of Justice that such a filtering system is incompatible with the Directive on electronic commerce and with fundamental rights. Today, the European Court of Justice ruled in full agreement with Scarlet - this has to be one of the clearest and most straightforward rulings I've ever seen. The Court of Justice doesn't mince any words here.

There are two elements to the ruling. First, imposing such a filtering system would hinder Scarlet in freely conducting business, a violation of the Directive on electronic commerce. This is the practical side of the ruling.

"In the present case, the injunction requiring the installation of a filtering system involves monitoring, in the interests of copyright holders, all electronic communications made through the network of the internet service provider concerned. That monitoring, moreover, is not limited in time," the Court of Justice states, "Such an injunction would thus result in a serious infringement of Scarlet's freedom to conduct its business as it would require Scarlet to install a complicated, costly, permanent computer system at its own expense."

Other than this practical side, the ruling also has a philosophical side which deals with the implications such a filtering system would have for fundamental rights such as privacy.

"What is more, the effects of the injunction would not be limited to Scarlet, as the filtering system would also be liable to infringe the fundamental rights of its customers, namely their right to protection of their personal data and their right to receive or impart information, which are rights safeguarded by the Charter of Fundamental Rights of the EU," the Court continues.

"It is common ground, first, that the injunction would involve a systematic analysis of all content and the collection and identification of users' IP addresses from which unlawful content on the network is sent. Those addresses are protected personal data," the Court further clarifies, "Secondly, the injunction could potentially undermine freedom of information since that system might not distinguish adequately between unlawful content and lawful content, with the result that its introduction could lead to the blocking of lawful communications."

The Court concludes, therefore, that ISP-side filtering systems would not strike a fair balance between IP protection on one side, and "the freedom to conduct business, the right to protection of personal data and the right to receive or impart information" on the other.

The European digital rights organisation EDRI is obviously pleased with the ruling. "This result is hugely important, as it protects the openness of the Internet," EDRI states in a press release, "The alternative would have been a decision which would ultimately have put all European networks under permanent surveillance and filtering. This would have had major negative consequences for both fundamental rights and the online economy in Europe."

It's interesting to see how many parts of Europe are starting to take serious stands against the draconian, anti-freedom laws and initiatives

the United States is trying to impose upon the rest of the world. Just this week, the Dutch minister of foreign affairs refused to declassify all the documents and negotiation details surrounding ACTA - as a result, the Dutch Lower House accepted a motion to block all debates and talks in the Lower House until all materials related to ACTA are declassified and made available to the public. Until then, ACTA will not even be discussed in the Lower House, and thus, will not be accepted.

Meanwhile, the European Parliament is taking a stand against SOPA, and fighting to make unconditional net neutrality - as codified first by Chile and second by The Netherlands - part of European Union law. And now we have the highest courts on the side of freedom of speech and fundamental rights as well?

Only a few months ago I thought the fight was pretty much over, and that we, sanity, had lost. Now - things ain't looking so dire any more. The tables are turning.

### Facebook Settles FTC Charges That It Deceived Consumers By Failing To Keep Privacy Promises

The social networking service Facebook has agreed to settle Federal Trade Commission charges that it deceived consumers by telling them they could keep their information on Facebook private, and then repeatedly allowing it to be shared and made public. The proposed settlement requires Facebook to take several steps to make sure it lives up to its promises in the future, including giving consumers clear and prominent notice and obtaining consumers' express consent before their information is shared beyond the privacy settings they have established.

The FTC's eight-count complaint against Facebook is part of the agency's ongoing effort to make sure companies live up to the privacy promises they make to American consumers. It charges that the claims that Facebook made were unfair and deceptive, and violated federal law.

"Facebook is obligated to keep the promises about privacy that it makes to its hundreds of millions of users," said Jon Leibowitz, Chairman of the FTC. "Facebook's innovation does not have to come at the expense of consumer privacy. The FTC action will ensure it will not."

The FTC complaint lists a number of instances in which Facebook allegedly made promises that it did not keep:

In December 2009, Facebook changed its website so certain information that users may have designated as private - such as their Friends List - was made public. They didn't warn users that this change was coming, or get their approval in advance.

Facebook represented that third-party apps that users' installed would have access only to user information that they needed to operate. In fact, the apps could access nearly all of users' personal data - data the apps didn't need.

Facebook told users they could restrict sharing of data to limited audiences - for example with "Friends Only." In fact, selecting "Friends Only" did not prevent their information from being shared with third-party applications their friends used.

Facebook had a "Verified Apps" program & claimed it certified the security of participating apps. It didn't.

Facebook promised users that it would not share their personal information with advertisers. It did.  
Facebook claimed that when users deactivated or deleted their accounts, their photos and videos would be inaccessible. But Facebook allowed access to the content, even after users had deactivated or deleted their accounts.  
Facebook claimed that it complied with the U.S.- EU Safe Harbor Framework that governs data transfer between the U.S. and the European Union. It didn't.

The proposed settlement bars Facebook from making any further deceptive privacy claims, requires that the company get consumers' approval before it changes the way it shares their data, and requires that it obtain periodic assessments of its privacy practices by independent, third-party auditors for the next 20 years.

Specifically, under the proposed settlement, Facebook is:

- barred from making misrepresentations about the privacy or security of consumers' personal information;
- required to obtain consumers' affirmative express consent before enacting changes that override their privacy preferences;
- required to prevent anyone from accessing a user's material more than 30 days after the user has deleted his or her account;
- required to establish and maintain a comprehensive privacy program designed to address privacy risks associated with the development and management of new and existing products and services, and to protect the privacy and confidentiality of consumers' information; and
- required, within 180 days, and every two years after that for the next 20 years, to obtain independent, third-party audits certifying that it has a privacy program in place that meets or exceeds the requirements of the FTC order, and to ensure that the privacy of consumers' information is protected.

The proposed order also contains standard record-keeping provisions to allow the FTC to monitor compliance with its order.

Facebook's privacy practices were the subject of complaints filed with the FTC by the Electronic Privacy Information Center and a coalition of consumer groups.

The Commission vote to accept the consent agreement package containing the proposed consent order for public comment was 4-0. The FTC will publish a description of the consent agreement package in the Federal Register shortly. The agreement will be subject to public comment for 30 days, beginning today and continuing through December 30, 2011 after which the Commission will decide whether to make the proposed consent order final. Interested parties can submit comments online or in paper form by following the instructions in the "Invitation To Comment" part of the "Supplementary Information" section. Comments in paper form should be mailed or delivered to: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form near the end of the public comment period be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

After a series of one-sided hearings, luxury goods maker Chanel has won recent court orders against hundreds of websites trafficking in counterfeit luxury goods. A federal judge in Nevada has agreed that Chanel can seize the domain names in question and transfer them all to US-based registrar GoDaddy. The judge also ordered "all Internet search engines" and "all social media websites" - explicitly naming Facebook, Twitter, Google+, Bing, Yahoo, and Google - to "de-index" the domain names and to remove them from any search results.

The case has been a remarkable one. Concerned about counterfeiting, Chanel has filed a joint suit in Nevada against nearly 700 domain names that appear to have nothing in common. When Chanel finds more names, it simply uses the same case and files new requests for more seizures. (A recent November 14 order went after an additional 228 sites; none had a chance to contest the request until after it was approved and the names had been seized.)

How were the sites investigated? For the most recent batch of names, Chanel hired a Nevada investigator to order from three of the 228 sites in question. When the orders arrived, they were reviewed by a Chanel official and declared counterfeit. The other 225 sites were seized based on a Chanel anti-counterfeiting specialist browsing the Web.

That was good enough for Judge Kent Dawson to order the names seized and transferred to GoDaddy, where they would all redirect to a page serving notice of the seizure. In addition, a total ban on search engine indexing was ordered, one which neither Bing nor Google appears to have complied with yet.

Missing from the ruling is any discussion of the Internet's global nature; the judge shows no awareness that the domains in question might not even be registered in this country, for instance, and his ban on search engine and social media indexing apparently extends to the entire world. (And, when applied to US-based companies like Twitter, apparently compels them to censor the links globally rather than only when accessed by people in the US.) Indeed, a cursory search through the list of offending domains turns up poshmoda.ws, a site registered in Germany. The German registrar has not yet complied with the US court order, though most other domain names on the list are .com or .net names and have been seized.

The US government has made similar domain name seizures through Operation In Our Sites, grabbing US-based domains that end in .com and .net even when the sites are located abroad. Such moves by themselves would seem to do little to stop piracy in the long-term; they simply teach would-be miscreants to register future domain names in other countries.

Lawyer Venkat Balasubramani, writing about the case yesterday, sums it up eloquently: "Wow."

"I'm sympathetic to the 'whack-a-mole' problem rights owners face, but this relief is just extraordinarily broad and is on shaky procedural grounds," he writes. "I'm not sure how this court can direct a registry to change a domain name's registrar of record or Google to de-list a site, but the court does so anyway. This is probably the most problematic aspect of the court's orders."

Rightsholders have asked Congress to write these provisions (and a few more) into law, and they have pushed for government seizures like those

from Operation In Our Sites (which just seized another batch of new domains this last weekend). But as Balasubramani points out, cases like Chanel's show that rightsholders can already get what they want from judges, and they can go after far more sites more quickly than the government.

"The fight against SOPA [the Stop Online Piracy Act] may be a red herring in some ways," he notes, "since IP plaintiffs are fashioning very similar remedies in court irrespective of the legislation. Thus, even if SOPA is defeated, it may turn out to be a Pyrrhic victory - opponents may win the battle but may not have gained much as a result."

### HP Douses Fiery Printer Hack Theory

Hewlett Packard is dousing a report that cyber attackers could break into LaserJet printers over the Internet and make them overheat enough to catch fire.

"There has been sensational and inaccurate reporting regarding a potential security vulnerability with some HP LaserJet printers," the California-based company said in a memo available online Wednesday.

"Speculation regarding potential for devices to catch fire due to a firmware change is false," the memo asserted.

While a security flaw did exist making it possible to hack into the software of printers connected to the Internet without firewall defenses, "thermal breakers" built into the hardware cuts power if devices overheat, HP said.

HP was working on a software upgrade to patch the vulnerability.

Word that hackers could set HP printers ablaze swept across the Internet like wildfire after researchers at Columbia University were quoted as saying they found a way for cyberattackers to manipulate ink-drying components.

### Google's Chrome Web Browser Challenging Firefox

Google's Chrome Web browser is gaining ground on Firefox, and according to one industry tracker may even have eclipsed its open-source rival in the global market.

Chrome was the world's second favorite Web browsing program in November, bumping Firefox from that position for the first month ever, according to StatCounter Global Stats.

Google's Chrome had a 25.69 percent share of online browsing last month compared to 25.23 percent for Firefox, according to StatCounter. Firefox is managed by the nonprofit Mozilla Foundation.

Microsoft's Internet Explorer (IE) remained the dominant Web browser with 40.63 percent of the global market, the findings indicated.

"We can look forward to a fascinating battle between Microsoft and Google as the pace of growth of Chrome suggests that it will become a real rival to Internet Explorer globally," said StatCounter chief executive Aodhan Cullen.

However, Internet metrics firm Net Applications on Friday reported that Firefox still clung to second place in the browser market although Chrome has steadily narrowed the gap through the year and was closing in.

Firefox was losing ground in the United States but held onto second place here with 20.09 percent of the market compared to Chrome's 10.89 percent, according to StatCounter.

IE reportedly handled 50.66 percent of US Internet browsing.

#### Kansas Governor Says Staff Overreacted to Teen's Tweet

When a high school senior tweeted that Kansas Gov. Sam Brownback "sucked," among other invectives, reaction at the state Capitol led her principal to demand an apology. Instead, it was the Republican governor offering a mea culpa Monday, forced to admit to a self-described overreaction by his staff that subjected him to ridicule for efforts to police a teenager's Internet musings.

Emma Sullivan's tweet from the back of a crowd listening to Brownback speak last week, and her subsequent refusal to write an apology letter, spurred several thousand supporters to rush to her online defense - boosting her Twitter following from 61 friends to more than 12,000 people in less than a week.

The 18-year-old from the Kansas City suburb of Fairway was taking part in a Youth in Government program in Topeka when she tweeted from her cell phone: "Just made mean comments at gov. brownback and told him he sucked, in person (hash)heblowsalot."

She said she was just joking with friends, but Brownback's office, which monitors social media for postings containing the governor's name, contacted the youth program. Sullivan said she was called to the principal's office for the first time ever and told to apologize in writing to the governor.

"My staff overreacted to this tweet, and for that I apologize," Brownback said in a statement Monday. "Freedom of speech is among our most treasured freedoms."

The reaction exemplifies what Bradley Shear, a Washington, D.C.-area social media attorney, called an example of the nationwide chasm between government officials and rapidly evolving technology.

"This reflects poorly on the governor's office," Shear said. "It demonstrates their P.R. department and whoever is dealing with these issues need to get a better understanding of social media in the social media age. The biggest problem is government disconnect and a lack of understanding of how people use the technology."

Brownback's office declined to discuss its social media monitoring in detail, but politicians and governmental offices across the county are

increasingly keeping an eye on the Internet for mentions of their campaigns or policies, not unlike the way newspapers and television broadcasts have been watched for decades. Many officials even maintain their own Facebook and Twitter accounts to inform constituents of events or policy announcements.

Shear said the disconnect comes in determining how, or if, to respond in a new age of interactivity.

"Whatever issues are out there, we're just starting the conversation about them," Shear said. "There needs to be a national conversation on how to respond to these issues and how to do it right."

Missouri Gov. Jay Nixon's office, for example, doesn't formally monitor comments about the governor posted through social media sites, nor has the office reached out to anybody because of comments they posted, spokesman Scott Holste said.

"Our focus and concerns are really on bigger things," Holste said. "It's an occasional glance, but it's not something that is systematic."

Sullivan's tweet Nov. 21 caught the eye of Brownback's deputy communications officer, who forwarded it to two staffers in the governor's office, according to a string of emails obtained by The Associated Press.

Niomi Burget, assistant director of scheduling, forwarded the tweet to Deborah Brown with the Shawnee Mission School District, who is state coordinator for the Youth in Government program, and said she didn't know if the student was in Brown's group, but thought if she was Brown might want to know about the tweet.

Brown responded that she had contacted Sullivan's principal, was embarrassed for the program, and hoped Brownback would speak to students again next year.

As Sullivan's tweet and her school's call for an apology letter gained traction online, Shawnee Mission East Principal Karl Krawitz emailed Burget to say that the teen never was threatened with punishment if she refused to write the letter. Krawitz, who said he had received "disgusting" hate mail over the incident, acknowledged he wasn't a Brownback supporter but was troubled that a student had been disrespectful while on a school trip.

"I am not a big fan of the governor, but I respect the person and the office," he wrote in the email Saturday, adding that he thought the incident "will probably get ugly."

The Shawnee Mission School District said Monday it was no longer seeking a letter from Sullivan.

"Whether and to whom any apologies are issued will be left to the individuals involved," the statement said. "The issue has resulted in many teachable moments concerning the use of social media. The district does not intend to take any further action on this matter."

Doug Bonney, legal director for the American Civil Liberties Union of Kansas and Western Missouri, said the teen's speech was clearly protected by the First Amendment.

"Saying that the governor is no good and is a blowhard is core protected speech," Bonney said. "It's absolutely what the First Amendment was

designed to protect."

Sullivan said Monday that nobody from the school told her about the statement it issued saying she didn't have to write the apology letter, nor did she hear from the Brownback's office about its apology. She instead heard about both from news media seeking comment.

"They were just kind of out there for the world, but no one reached me directly," she said.

## UK Spy Agency Asks Hackers To Crack Code

Can you crack the code?

That's the question Britain's electronic listening agency, GCHQ, is asking in an online campaign to find the next generation of cyber specialists.

GCHQ quietly launched a cryptic website last month featuring a box of code made up of numbers and letters. There is no branding on the site, only the phrase "Can you crack it?"

The agency has now revealed it is behind the campaign, and said Friday it's trying to reach individuals with "a keen interest in code breaking and ethical hacking" for careers at GCHQ.

"It's to arouse interest in people who perhaps might not be caught by our normal recruitment campaigns," a GCHQ spokesman said, speaking on customary condition of anonymity.

Cracking the code reveals a keyword, which when entered into a space on the website prompts the GCHQ job-recruitment website to appear.

The agency is currently recruiting for cyber security specialists - at a pay grade of around 25,000 pounds (\$39,000) - and hopes to recruit around 35 people over the next few months, the spokesman said.

More than 50 people have successfully cracked the code so far - of which 80 percent have submitted an application, the spokesman said.

GCHQ said the fast-moving pace of the digital arena and cybersecurity means it must find new ways to engage with prospective candidates, who typically have entered the agency as graduates.

"With the threats to information and computer technology constantly evolving, it is essential that GCHQ allows candidates who may be self taught, but have a keen interest in code breaking and ethical hacking, to enter the recruitment route too," it said in a statement.

But career hackers beware: "Anyone applying who has hacked illegally will not be eligible to continue in the recruitment process," GCHQ warned.

And gaming the website isn't a guarantee for joining GCHQ's ranks. The spokesman said that while anyone who cracks the code likely has an aptitude for GCHQ's type of work, it won't catapult code-crackers ahead of other job applicants automatically.

The agency said it has been using social media to get the word out and

that the site has attracted about 8,000 hits.

### Half of Adults Believe Social Media Sites Hurt Youth?

If the results of a recent telephone survey are to be taken at face value - a reasonably big if, in my opinion - roughly half of American adults believe that Facebook, Twitter and their ilk are harmful to the social development of today's young people.

The survey of 1,200 registered voters by Poll Position, conducted Nov. 13 via telephone using Interactive Voice Response technology, asked the loaded question: "Do you think that social media are helpful or harmful to the social development of today's youth?"

The results: Fifty-three percent answered "harmful," 20% said "helpful," 17% said it is "not making a difference," and 10% offered no opinion.

You say you've never heard of Poll Position? Neither had I, so I'm inclined to be wary here, but the results are eye-catching if for no other reason but they remain remarkably consistent across age groups - even 46.5% of those 18 to 29 said they consider social media harmful. In fact, the general consensus only diverges significantly when accounted for by the respondent's political party affiliation, as does everything these days; more Republicans (65%) see harm from social media than do Democrats (40%).

Of course, the question itself strikes me as questionable. You might as well ask: "Have you heard and read more scary stories or more positive stories about social media?"

Poll Position makes no bones about the fact that it is in the business of asking provocative questions. Relaunched recently by former CNN news executive Eason Jordan, the site takes what it contends are scientifically valid polls and offers registered users an opportunity to answer the same questions in non-scientific online surveys. The side-by-side presentation offers at least the potential of interest.

So just out of curiosity, I registered at Poll Position in order to vote in and see the results of the online survey asking about social media. The results were even more stark, as fully 60% (of an unspecified number of respondents) indicated they believe social media is a detriment to childhood social development.

For the record, I don't believe social media is harming the youth of America.

But that's easy for me to say, because my kids are still too young for Facebook.

A recent item here about the FBI allegedly using "FBI Van 1" as a Wi-Fi SSID (almost certainly a joke) elicited this anecdote from David Henderson, technology coordinator for the Southwest Arkansas Education Cooperative:

"A group of kids from one school district grabbed a laptop and a Wi-Fi finder app and started driving around town. Every open Wi-Fi spot they found, they attempted to use the default username/password from a list

of known logins for various AP makers. Once logged in, they changed the SSID of any box they could access to a 3-letter acronym. Before the day was over, they had managed to create a city-wide Wi-Fi network based on the acronym. You could drive almost anywhere and never lose your connection as (your laptop) was just handed off from AP to AP. It was great fun. Of course, people caught on and changed their SSIDs and added security, which was kind of the point."

I'm guessing it was more the fun than the lesson, but that's OK.

#### Dentist Fines Patient for Posting Negative Review Online, Could It Happen to You?

Posting your opinions publicly on the internet can sometimes land you in hot water, especially if you're a public figure. That said, individuals in America have the right to free speech, and many websites such as Yelp exist to provide users a place to sound off on local businesses and post their opinions, good and bad, for other users to read. These services allow potential customers to get an idea of what to expect from a business before spending their hard-earned time and money there.

When his New York dentist overcharged him, submitted his records to the wrong insurance company, then refused to provide copies of his records to him so he could submit them properly himself, 42-year-old Robert Lee thought nothing of posting bad reviews to websites such as Yelp and DoctorBase. "Avoid at all cost! Scamming their customers!" he posted, hoping to warn others of the careless acts he had fallen victim to. Shortly thereafter, dentist Stacy Makhnevich demanded the sites remove the comments and threatened to sue Lee. Her practice began sending him fines in the form of \$100 daily invoices for infringing on her copyright provisions.

So how did this happen? With many users basing their business decisions on user review sites like Yelp, businesses have a very large stake in making sure the reviews and opinions posted about them online are appropriately glowing and positive. One could argue that the best way to do that would be to simply provide excellent service, but some businesses are going another route, and requiring their clients to sign anti-defamation contracts.

Such contracts have become more widespread in recent years. They generally contain a clause that insists clients not post any public comments about the doctor, in return for the doctor not evading federal privacy protections regarding patient information. Some contracts, such as the one used by Makhnevich, go even further, including a clause giving Makhnevich copyright to anything posted online about her.

Lee said he questioned the terms of the contract when he arrived in Makhnevich's office for treatment of a severe toothache and infection, but says he was in agony at the time, and signed it so that he could be treated. "It was a situation of duress," says Lee's lawyer, Paul Alan Levy. "It is outrageous that a patient would have to sign away his constitutionally protected right to get treatment for a toothache," he added.

Within hours of Lee's complaint being filed on behalf by the advocacy group Public Citizen, Medical Justice Services, Inc., the firm that designed the contract retired it and advised its clients to stop using it. Levy praised

the decision, but says that Lee's lawsuit against Makhnevich will continue and the broader issues remain. Most online business review sites cite protections under the Federal Communications Decency Act and refuse to remove negative comments. In Lee's case, the dentist's copyright claim was deemed baseless because posting such comments is a classic example of fair use under federal statutes.

The clause in the contract that attempts to use patient privacy as a bargaining chip is also invalid, according to the Federal Office of Civil Rights, as privacy protections afforded by the Health Insurance Portability and Accountability Act, otherwise known as HIPAA, are legally binding. It remains to be seen whether Lee's case will lead to the elimination of such contracts, but it seems to at least be a step in the right direction.

### Study Confirms Many of Us Go Online for No Reason

For anyone who needed official word, a new study confirms that many of us - and the majority of young adults - go online for no good reason at all.

The report from the Pew Research Center's Internet & American Life Project found that on any given day, 53 percent of 18 to 29 year-olds go online just to have fun or pass time.

That should explain all those kitten videos.

The report finds that the amount of time people spend tooling around on the Web doing nothing corresponds with age. Only 12 percent of people over 65 say they went online the previous day for no particular reason. Of those aged 50 to 64, the study found 27 percent answered yes to the same question.

In all, 58 percent of all adults said that they use the Internet to pass time or have fun at least occasionally. Of adults who use the Internet, nearly three-quarters surf the Web for no reason.

The survey didn't define "fun," so people could interpret it broadly. For some people, gossip blogs might be fun, for others, they're serious research.

Pew is releasing the study on Friday. The phone survey was conducted from July 25 to Aug. 26 among 2,260 American adults.

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